THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT APPEAL NO. 965 of 2005

Date: 22-08-2005

Between:

Ms.Ahmedi Sultana …Appellant

And

Osmania University and others …Respondents

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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J U D G M E N T (Per the Hon'ble Sri Bilal Nazki, ACJ)

Heard learned counsel for the parties.

This is an appeal against the order of learned Single Judge passed in W.P.No.7503 of 2005. The facts are not at dispute and the controversy is short. The writ petitioner was admitted to B.Ed course by respondent No.3-College. She completed the course and at the time of examination, she was informed that she could not sit in the

examination, as she was not eligible in terms of G.O.Rt.No.169, Education Department, dated 05-02-2004. The petitioner challenged the order in the writ petition. The learned Single Judge found that the writ petitioner was not eligible in terms of the said G.O, therefore, dismissed the writ petition.

Mr.S.Niranjan Reddy, appearing for the appellant/writ petitioner submits that it is settled law that the State Government can prescribe higher qualification than prescribed by the Central Government or Central Agencies created under the Central Acts, but it cannot reduce the standard if the standard has been fixed by any Central Agency in terms of any Central Act. He submits that the field is occupied by an Act known as National Council for Teacher Education Act, 1993 (for short "the NCTE Act") and the norms of eligibility to B.Ed course have been prescribed by the National Council for Teacher Education (NCTE) also. He submits that if there is any conflict between the norms set out by the Board created under NCTE Act and the norms laid down by the State Government, the State Government norms would have to yield to the Central Government norms if the standard laid down by the State Act or State laws is lower than the standard laid down by the Central Agencies.

The State Government G.O. lays down that

> *"candidates who have passed the qualifying examination i.e., B.A./B.Sc./B.Com/B.Sc (Home Science)/ BCA/BBM with an aggregate of 45% marks and above in part-II (group subjects) are alone eligible for admission into B.Ed courses. However, in case of SC/ST candidates a mere pass is sufficient."*

On the other hand, the Central Government under Norms and Standards for Teacher Education Institutions lays down that

> *"4.1.1.Eligibility: Essential: Candidates possessing at least 45% marks in the aggregate in the Bachelor's degree/Master's degree examination of a recognized University provided the applicant has offered at least two school subjects at the first and/or second degree level."*

The contention of learned counsel for the appellant is that what the NCTE requires is that a candidate should have 45% marks in the aggregate in Bachelor's degree/Master's degree. On the other hand, what the State G.O prescribes is that the candidate should have 45% in Part-II (group subjects). He further contends that in a given case it is possible if the State Government's G.O is applied that candidates with less than 45% marks in the aggregate would get admitted, which would be against the norms prescribed by the NCTE. If the State Government had prescribed a norm that candidate should have 45% marks in a group of subjects and also 45% in the aggregate or the State Government had prescribed that the candidates should have 45% marks in a group of subjects or more than 45% marks in a group of subjects provided the aggregate also remains 45%, the norms would have been applicable and executable.

Though in the present case, the appellant has 45% marks in the aggregate, but as she does not have 45% marks in part-II (group subjects), therefore, although being eligible under the norms prescribed by the NCTE, she was not allowed to sit in the examination, which is violative of these norms. Besides, there is no mechanism as it appears from the case to scrutinize the eligibility of the candidates at the time of admission. The appellant was admitted to the college. She was also allowed to pursue her studies for one complete year and at the time of examination she was told that she was not eligible. Therefore, equities are also clearly in her favour. Whether a candidate is eligible or not has to be considered by the authorities at the time of admission and not at the time of appearance in the examination after completing the course.

Learned Government Pleader appearing for the State submits that the norms laid down by the NCTE are not statutory, they are not framed under the Act and they are neither Rules nor Regulations. But, our attention has been drawn to Section 12(e) and 12(g) of the NCTE Act.

Section 12(e) of the NCTE Act lays down the norms for any specified category of courses or trainings in teacher education, including the minimum eligibility criteria

for admission thereof, and the method of selection of candidates, duration of the course, course contents and mode of curriculum. Section 12(g) of the NCTE Act lays down the standards in respect of examinations leading to teacher education qualifications, criteria for admission to such examinations and schemes of courses or training. The norms and standards for teacher education Institutions are clearly framed under Section 12 of the NCTE Act and these norms are also made mandatory as is abundantly clear from para 8 of the preamble, which reads as under.

> *"In this document, the norms and standards for regular institutional programmes of secondary teacher education leading to B.Ed degree are presented. These norms shall apply to all institutions offering regular institutional one year secondary teacher education programme irrespective of the fact that this is the only educational programme of the institution or is one of several other teacher education programmes offered by the institution."*

For the reasons given above, we set aside the order of the learned Single Judge and allow the writ appeal. At this stage, we are told that the appellant was not able to sit in the examination when the examination was conducted. Since the appellant has completed one year of training course, therefore, we direct that she should be allowed to sit in the examination, which will be conducted now. The respondents are also directed to make a foolproof system of checking the eligibility of the candidates at the time of admission. No order as to costs.

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(Bilal Nazki, ACJ)

22nd August, 2005

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(G.Chandraiah,J)

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